

Name of complainant/attorney representative:
Address of complainant/attorney representative:
City, State, Zip Code:

Complaint of _____
v. _____, Secretary of the Army
DA Docket Number(s):

Dear _____:

This is the Department of the Army's final decision in the above-captioned equal employment opportunity complaint filed on (insert date). Your (Your client's) initial contact with an EEO official was (insert date) and you (your client) received the Notice of Right to File a Formal Complaint of Discrimination on (insert date).

In your (your client's) formal complaint of discrimination, you (your client) allege(s) discrimination on the basis/bases of (insert basis/bases) in the following action(s) when: (FRAME THE CLAIM(S) RAISED IN THE FORMAL COMPLAINT, TO INCLUDE DATE AND SPECIFIC ACTION. IF SEVERAL CLAIMS INVOLVED, START WITH MOST RECENT.)

a.

b.

Because you have (your client has) made a prior election to appeal your (your client's) (insert personnel action) to the Merit Systems Protection Board (MSPB), (MSPB Docket Number: (insert MSPB docket number) Title 29, Code of Federal Regulations (CFR), Section 1614.302(c)(2)(i) requires that the Army dismiss the mixed case complaint pursuant to 29 C.F.R. Section 1614.107(a)(4). You are advised that you must bring the allegations of discrimination contained in the dismissed complaint to the attention of the MSPB, pursuant to 5 C.F.R. Section 1201.155. You are further advised that you have the right to petition the Employment Opportunity Commission (EEOC) to review the MSPB's final decision on the discrimination issue.

This dismissal is not appealable to the EEOC unless you allege that 29 C.F.R. Section 1614.107(a)(4) has been applied to a non-mixed case matter. If you believe that your complaint is not a mixed case matter, you may file an appeal with the Equal Employment Opportunity Commission, Office of Federal Operation, P.O. Box 19848, Washington, DC 22036 within 30 calendar days of receipt of this dismissal. In or attached to the appeal, you must certify to the EEOC that a copy of the appeal was served on the agency, including the date and method of service. A copy of the appeal must be provided to the Office of EEO/Civil Rights (Deputy for EEO Compliance and Complaints Review) Department of the Army, ATTN: SAMR EEOCCA, Suite 109B, 1941 Jefferson Davis Highway, Arlington, VA 22202-4508 and to the agency representative, [insert name, address, and e-mail address of agency representative], at

the same time it is filed with the EEOC. A copy of EEOC Form 573, Notice of Appeal/Petition, is enclosed for your convenience.

The DA docket number(s) identified on the top of page 1 of this letter should be used on all correspondence.

Sincerely,

Signature block of EEO officer or appropriate official

Enclosure

Copy Furnished:
Complainant, if represented by an attorney; or
Non-attorney representative
Agency representative

NOTES:

1. If there is a question concerning jurisdiction raised by either the agency or the MSPB administrative judge on the appeal, the mixed case complaint will not be dismissed and will be held in abeyance until the MSPB administrative judge rules on the jurisdictional issue.
2. This notice will be issued to complainant/representative in accordance with the service rules set forth in paragraph 1-23.
3. A copy of the notice and the certified return receipt will be filed in the complaint file under Tab "Formal".
5. A copy of EEOC Form 573, Notice of Appeal/Petition will be attached to the final agency decision to dismiss. The form will be locally reproduced.

Figure 4-6 Sample Dismissal Decision for Discrimination Complaint for Prior Election of Forum (Mixed Complaints)